

DEPARTMENT OF INSURANCE

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December 11, 2006

TO CALIFORNIA COIN CERTIFIED CDFIs:

Notice of Changes to the California CDFI Tax Credit Program

The purpose of this letter is to alert all California Community Development Financial Institutions (CDFIs) certified by the California Organized Investment Network (COIN) of several significant changes to the California CDFI Tax Credit Program.

The California Department of Insurance is pleased that a new law sponsored by Insurance Commissioner John Garamendi and authored by Assemblyman Mark Ridley-Thomas has extended the CDFI Tax Credit Program to January 1, 2012. We appreciated the opportunity to work with many of you throughout the legislative process who provided suggestions for program improvements and worked with us to get the legislation enacted.

Attached is a summary of key changes as well as the full text of the new law (Chapter 580/2006). COIN strongly encourages you to read the law itself - at least Section 1 and one of the next three Sections. Section 1 of the law covers the Legislature's intentions for the program. Sections 2, 3 and 4 are nearly identical to each other, with differences tailoring the text to each class of taxpayer eligible for the tax credit. Your potential investors may be particularly interested in reviewing the Section that pertains to their own classification as a California taxpayer.

COIN would like to highlight one change. It impacts the determination of when a tax credit application is received. All tax credit applications received on the same business day are deemed to be received at the same time. If the aggregate amount of the tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments on a pro rata basis.

For more information concerning the CDFI Tax Credit Program please contact Anna Gragg or me. Anna may be reached at (916) 492-3422 or gragga@insurance.ca.gov. You may also wish to visit the COIN Web site: <http://www.insurance.ca.gov/0200-industry/0700-COIN/>.

We look forward to working with you in the coming year.

Sincerely,

Delores McKinnon
Director, California Organized Investment Network (COIN)

Enclosures

**CA Community Development Financial Institution (CDFI)
Tax Credit Program
Key Changes Created by Enactment of AB 2831, Chapter 580 (2006)**

Legislative Intent Codified - New Section 12939 added to the California Insurance Code. This Section codifies the findings, declarations, and intent of the Legislature regarding requirements for CDFI Certification and use of program monies, including Section 12939.(d) which reads:

"It is the intent of the Legislature to provide an incentive in the form of California tax credits to attract much needed additional private capital investments that would not otherwise be available to CDFIs without the benefit of such incentive. It is the expectation of the Legislature that CDFIs will leverage these new investment dollars for the direct benefit of economically disadvantaged communities and low-income people in California."

Totals, Set-Asides and Limits

Each calendar year, qualified investments in CDFIs totaling \$10,000,000 are eligible for tax credits of 20% of the investment amount (\$2,000,000 in total tax credits.)

EFFECTIVE JANUARY 1, 2007:

Set-Asides - until July 1 each year, tax credits for the following investment amounts are set-aside:

- For **small investments** (individual investment amounts of \$300,000 or less) **\$3.00 million**
- For investments by **admitted insurers** **\$2.50 million**

Amount available for investments each calendar year without regard to set-asides **\$4.50 million**

Maximum total investments each calendar year for any one CDFI or affiliated CDFIs
This maximum applies until October 1 each year. **\$4.00 million**

Pro-rating of tax credits when the program is oversubscribed - All applications received on the same business day are deemed to be received at the same time. If the aggregate amount of the tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments received on that day on a pro rata basis.

New Specifications for Investments

- The CDFI shall have **full use and control** of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes.
- The CDFI shall **use the proceeds** of the investment **for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.**

New Reporting Requirements

- **CDFIs** - The Legislature has added a requirement for CDFIs to report to COIN on their use of the CDFI tax credit program. COIN will work with the CDFIs to develop instructions on the reporting schedule, content and format beginning with the 2006 calendar year. The reports must have the information needed for COIN and the Legislative Analyst to carry out the analyses and reports required of them.
- **COIN Report to the Legislature** - Based on the reports received from the CDFIs, COIN is now required to provide information on the tax credit program for inclusion biennially in the Department of Insurance's Report to the Governor and the Legislature.
- **Legislative Analyst Report to the Legislature** - The Legislative Analyst is to prepare an analysis of the tax credit program, including, but not limited to, its fiscal impact, what programs, projects, and other uses were funded or carried out by the CDFIs that were supported in whole or in part by the tax credit investments, and the resulting benefits to economically disadvantaged communities and low income people in California. The report is due on or before December 31, 2010.

Assembly Bill No. 2831

CHAPTER 580

An act to add Article 1.1 (commencing with Section 12939) to Division 3 of Chapter 2 of the Insurance Code, and to amend Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2831, Ridley-Thomas. Insurance, income, and corporation tax credits: CDFI.

Existing insurance tax law, the Personal Income Tax Law, and the Corporation Tax Law, authorize, until January 1, 2007, a credit in an amount equal to 20% of a qualified investment, as defined, made into a community development financial institution, as defined, but not to exceed, in the aggregate amount under all those laws, \$10,000,000 per year.

The bill would extend the operation of the credits until January 1, 2012, make changes relating to certification in connection with the credits, and make legislative findings and declarations in connection thereto, and require reports to various entities, as specified. This bill would also require the Legislative Analyst to prepare an analysis, on or before December 31, 2010, on the fiscal impact and various effects of the specified tax credits in California.

This bill would take effect immediately as a tax levy.

The people of the State of California do enact as follows:

SECTION 1. Article 1.1 (commencing with Section 12939) is added to Division 3 of Chapter 2 of the Insurance Code, to read:

Article 1.1. The California Community Development Financial Institution Tax Credit Program

12939. The Legislature finds and declares all of the following:

(a) There are specialized financial institutions in California that are specifically dedicated to, and whose core purpose is to, provide financial products and services to people and communities underserved by traditional financial markets. These Community Development Financial Institutions or CDFIs seek to bridge the growing gap that exists between

the financial products and services available to the economic mainstream and those offered to low-income people and communities, as well as the nonprofit institutions that serve them. In addition, they serve a critical role in addressing issues of poverty and access to credit in economically disadvantaged communities by providing services, including, but not limited to, credit counseling to consumers, financial literacy training, homeownership counseling, entrepreneurial education, and technical assistance to small business owners.

(b) These mission-driven financial institutions require additional capital in order to expand their ability to provide financial products and services for low-income individuals and communities, and the businesses and nonprofit agencies that serve them. For example, some offer responsible alternatives to high-cost check-cashing services and payday lenders that have moved into low-income communities. Others help finance small businesses, affordable housing, and community services and facilities that, in turn, help stabilize low-income neighborhoods and alleviate poverty.

(c) In carrying out their mission, funding community development is given priority over providing high returns to investors.

(d) It is the intent of the Legislature to provide an incentive in the form of California tax credits to attract much needed additional private capital investments that would not otherwise be available to CDFIs without the benefit of such incentive. It is the expectation of the Legislature that CDFIs will leverage these new investment dollars for the direct benefit of economically disadvantaged communities and low-income people in California.

12939.1. (a) The department, California Organized Investment Network (COIN), or any successor thereof, shall require the CDFIs receiving tax credit investments pursuant to Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code to submit reports to the department, COIN, or any successor thereof, on their use of the program and may specify by notice to those CDFIs the form, content, and manner of the reports.

(b) Biennially the department, COIN, or any successor thereof, shall include in the report required by Section 12922, information on the CDFI tax credit program based on the reports submitted by the CDFIs pursuant to subdivision (a).

(c) On or before December 31, 2010, the Legislative Analyst shall prepare an analysis, based upon data provided by the Franchise Tax Board, the Department of Insurance, and COIN, to the Legislative Analyst on or before September 30, 2010, of the tax credit investments provided for in Sections 12209, 17053.57, and 23657 of the Revenue and Taxation Code, including, but not limited to, the credits' fiscal impact, what programs, projects, and other uses were funded or carried out by the CDFIs that were supported in whole or in part by the tax credit investments, and the resulting benefits to economically disadvantaged communities and low income people in California.

SEC. 2. Section 12209 of the Revenue and Taxation Code is amended to read:

12209. (a) For each year beginning on or after January 1, 1999, and before January 1, 2012, there shall be allowed as a credit against the amount of tax, as defined in Section 28 of Article XIII of the California Constitution, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) For purposes of determining any tax that may be imposed under Section 685 of the Insurance Code on a taxpayer not organized under the laws of this state, the amount of the credit allowed by subdivision (a) shall be treated as a tax paid under Section 12201 or Section 28 of Article XIII of the California Constitution.

(c) (1) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) No credit shall be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment as defined in paragraph (1) of subdivision (g). In addition, on or after January 1, 2007, the aggregate certified investments shall meet all of the following:

(A) Each year, until October 1, the total qualified investments certified in any calendar year from any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, does not exceed the lesser of either ten million dollars (\$10,000,000) or 40 percent of the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3), or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(B) Each year, until July 1, the annual aggregate amount of qualified investments specified in the first sentence of paragraph (3) that is reserved for investments by admitted insurers is 25 percent, or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(C) Each year, until July 1, the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3) that is reserved for individual investment amounts of less than or equal to three hundred thousand dollars (\$300,000) is three million dollars (\$3,000,000), or until a date or amounts determined in regulations promulgated by the Insurance Commissioner.

(3) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 17053.57, and Section 23657 shall not exceed ten million dollars (\$10,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than ten million dollars (\$10,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(d) The community development financial institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a community development financial institution.

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(3) Obtain the taxpayer's California company identification number for tax administration purposes and provide this information to the Department of Insurance, California Organized Investment Network, or its successor, with the application required in paragraph (2).

(4) Provide an annual listing to the State Board of Equalization, in the form and manner agreed upon by the State Board of Equalization and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer's California company identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the department, COIN, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(e) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, issue regulations to implement the provisions of this section.

(f) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a community development financial institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (g). The certificate may be issued

for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from any community development financial institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (c). The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the year. Applications for tax credits shall be accepted and evaluated throughout the year. Certificates shall be issued in the order that complete applications are received. If the aggregate amount of tax credit applications exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments on a first-come-first-served basis as determined by the order in which complete applications are received. All applications received on the same business day are deemed to be received at the same time. If the aggregate amount of tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments received on that day on a pro rata basis.

(3) Provide an annual listing to the State Board of Equalization, in the form or manner agreed upon by the State Board of Equalization and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective National Association of Insurance Commissioners company number and employer's tax identification number, the amount of the qualified investment made by each taxpayer, and the total amount of qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(g) For purposes of this section:

(1) "Qualified investment" means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equitylike debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the

application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that, consistent with the findings, declarations, and intent set forth in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(h) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another community development financial institution within 60 days, there shall be added to the “tax,” as defined in Section 28 of Article XIII of the California Constitution, for the year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified investment is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “tax,” as defined in Section 28 of Article XIII of the California Constitution, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the year.

(i) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four years, or until the credit has been exhausted, whichever occurs first.

(j) The State Board of Equalization shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(k) This section shall remain in effect only until December 31, 2012, and as of that date is repealed.

SEC. 3. Section 17053.57 of the Revenue and Taxation Code is amended to read:

17053.57. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2012, there shall be allowed as a credit against the amount of “net tax,” as defined in Section 17039, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) (1) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that

the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) No credit shall be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment, as defined in paragraph (1) of subdivision (f). In addition, on or after January 1, 2007, the aggregate certified investments shall meet all of the following:

(A) Each year, until October 1, the total qualified investments certified in any calendar year from any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, does not exceed the lesser of either ten million dollars (\$10,000,000) or 40 percent of the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3), or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(B) Each year, until July 1, the annual aggregate amount of qualified investments specified in the first sentence of paragraph (3) that is reserved for investments by admitted insurers is 25 percent, or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(C) Each year, until July 1, the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3) that is reserved for individual investment amounts of less than or equal to three hundred thousand dollars (\$300,000) is three million dollars (\$3,000,000), or until a date or amounts determined in regulations promulgated by the Insurance Commissioner.

(3) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 23657 shall not exceed ten million dollars (\$10,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than ten million dollars (\$10,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(c) The Community Development Financial Institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a Community Development Financial Institution.

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(3) Obtain the taxpayer's identification number, or in the case of a partnership, the taxpayer identification numbers of all the partners for tax administration purposes and provide this information to the Department of Insurance, California Organized Investment Network, or its successor, with the application required in paragraph (2).

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the department, COIN, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner may, from time to time, issue regulations to implement the provisions of this section.

(e) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (f). The certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. Certificates shall be issued in the order that complete applications are received. If the aggregate amount of tax credit applications exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments on a first-come-first-served basis as determined by the order in which complete applications are received.

All applications received on the same business day are deemed to be received at the same time. If the aggregate amount of tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments received on that day on a pro rata basis.

(3) Provide an annual listing to the Franchise Tax Board, in a form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified investment made by each taxpayer, and the total amount of all qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(f) For purposes of this section:

(1) “Qualified investment” means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equitylike debt instrument that conforms to the specifications for these instruments as prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that, consistent with the legislative findings, declarations, and intent in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(g) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “net tax,”

as defined in Section 17039, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified investment is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “net tax,” as defined in Section 17039, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(h) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(i) The Franchise Tax Board shall, as requested by the Department of Insurance, California Organized Investment Network, or its successor, advise and assist in the administration of this section.

(j) This section shall remain in effect only until December 1, 2012, and as of that date is repealed.

SEC. 4. Section 23657 of the Revenue and Taxation Code is amended to read:

23657. (a) For each taxable year beginning on or after January 1, 1997, and before January 1, 2012, there shall be allowed as a credit against the amount of “tax,” as defined in Section 23036, an amount equal to 20 percent of the amount of each qualified investment made by a taxpayer during the taxable year into a community development financial institution that is certified by the Department of Insurance, California Organized Investment Network, or any successor thereof.

(b) (1) Notwithstanding any other provision of this part, no credit shall be allowed under this section unless the California Organized Investment Network, or its successor within the Department of Insurance, certifies that the investment described in subdivision (a) qualifies for the credit under this section and certifies the total amount of the credit allocated to the taxpayer pursuant to this section.

(2) No credit shall be allowed by this section unless the applicant and the taxpayer provide satisfactory substantiation to, and in the form and manner requested by, the Department of Insurance, California Organized Investment Network, or any successor thereof, that the investment is a qualified investment, as defined in paragraph (1) of subdivision (f). In addition, on or after January 1, 2007, the aggregate certified investments shall meet all of the following:

(A) Each year, until October 1, the total qualified investments certified in any calendar year from any one community development financial institution together with its affiliates, as defined in Section 1215 of the Insurance Code, does not exceed the lesser of either ten million dollars (\$10,000,000) or 40 percent of the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3), or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(B) Each year, until July 1, the annual aggregate amount of qualified investments specified in the first sentence of paragraph (3) that is reserved for investments by admitted insurers is 25 percent, or until a date or an amount determined in regulations promulgated by the Insurance Commissioner.

(C) Each year, until July 1, the annual aggregate amount of qualified investments authorized in the first sentence of paragraph (3) that is reserved for individual investment amounts of less than or equal to three hundred thousand dollars (\$300,000) is three million dollars (\$3,000,000), or until a date or amounts determined in regulations promulgated by the Insurance Commissioner.

(3) The aggregate amount of qualified investments made by all taxpayers pursuant to this section, Section 12209, and Section 17053.57 shall not exceed ten million dollars (\$10,000,000) for each calendar year. However, if the aggregate amount of qualified investments made in any calendar year is less than ten million dollars (\$10,000,000), the difference may be carried over to the next year, and any succeeding year during which this section remains in effect, and added to the aggregate amount authorized for those years.

(c) The Community Development Financial Institution shall do all of the following:

(1) Apply to the Department of Insurance, California Organized Investment Network, or its successor, for certification of its status as a Community Development Financial Institution.

(2) Apply to the Department of Insurance, California Organized Investment Network, or its successor, on behalf of the taxpayer, for certification of the amount of the investment and the credit amount allocated to the taxpayer, obtain the certification, and retain a copy of the certification.

(3) Obtain the taxpayer's identification number, or in the case of an "S" corporation, the taxpayer identification numbers of all the shareholders for tax administration purposes and provide this information to the Department of Insurance, California Organized Investment Network, or its successor, with the application required in paragraph (2).

(4) Provide an annual listing to the Franchise Tax Board, in the form and manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the names and taxpayer identification numbers of any taxpayer who makes any withdrawal or partial withdrawal of a qualified investment before the expiration of 60 months from the date of the qualified investment.

(5) Submit reports to the department, COIN, or any successor thereof, as required pursuant to subdivision (a) of Section 12939.1 of the Insurance Code.

(d) The Insurance Commissioner may develop instructions, procedures, and standards for applications, and for administering the criteria for the evaluation of applications under this section. The Insurance Commissioner

may, from time to time, issue regulations to implement the provisions of this section.

(e) The Department of Insurance, California Organized Investment Network, or any successor thereof, shall do all of the following:

(1) Accept and evaluate applications for certification from financial institutions and issue certificates that the applicant is a Community Development Financial Institution qualified to receive qualified investments. To receive a certificate, an applicant shall satisfy the Department of Insurance, California Organized Investment Network, or any successor thereof, that it meets the specific requirements to be a community development financial institution for this state program as defined in paragraph (2) of subdivision (f). The certificate may be issued for a specified period of time, and may include reasonable conditions to effectuate the intent of this section. The Insurance Commissioner may suspend or revoke a certification, after affording the institution notice and the opportunity to be heard, if the commissioner finds that an institution no longer meets the requirement for certification.

(2) Accept and evaluate applications for certification from any Community Development Financial Institution on behalf of the taxpayer and issue certificates to taxpayers in an aggregate amount that shall not exceed the limit specified in subdivision (b). The certificate shall include the amount eligible to be made as an investment that qualifies for the credit and the total amount of the credit to which the taxpayer is entitled for the taxable year. Applications for tax credits shall be accepted and evaluated throughout the year. Certificates shall be issued in the order that complete applications are received. If the aggregate amount of tax credit applications exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments on a first-come-first-served basis as determined by the order in which complete applications are received. All applications received on the same business day are deemed to be received at the same time. If the aggregate amount of tax credit applications received on a single business day exceeds the amount of tax credits available, tax credits shall be approved for qualifying investments received on that day on a pro rata basis.

(3) Provide an annual listing to the Franchise Tax Board, in the form or manner agreed upon by the Franchise Tax Board and the Department of Insurance, California Organized Investment Network, or its successor, of the taxpayers who were issued certificates, their respective tax identification numbers, the amount of the qualified investment made by each taxpayer, and the total amount of all qualified investments.

(4) Include information specified pursuant to subdivision (b) of Section 12939.1 of the Insurance Code in the report required by Section 12922 of the Insurance Code.

(f) For purposes of this section:

(1) "Qualified investment" means an investment that is a deposit or loan that does not earn interest, or an equity investment, or an equitylike debt instrument that conforms to the specifications for these instruments as

prescribed by the United States Department of the Treasury, Community Development Financial Institutions Fund, or its successor, or, in the absence of that prescription, as defined by the Insurance Commissioner. The investment must be equal to or greater than fifty thousand dollars (\$50,000) and made for a minimum duration of 60 months. During that 60-month period, the community development financial institution shall have full use and control of the proceeds of the entire amount of the investment as well as any earnings on the investment for its community development purposes. The entire amount of the investment shall be received by the community development financial institution before the application for the tax credit is submitted. The community development financial institution shall use the proceeds of the investment for a purpose that is consistent with its community development mission and for the benefit of economically disadvantaged communities and low-income people in California.

(2) “Community development financial institution” means a private financial institution located in this state that is certified by the Department of Insurance, California Organized Investment Network, or its successor, that, consistent with the legislative findings, declarations, and intent in Section 12939 of the Insurance Code, has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state. A community development financial institution may include a community development bank, a community development loan fund, a community development credit union, a microenterprise fund, a community development corporation-based lender, or a community development venture fund.

(g) (1) If a qualified investment is withdrawn before the end of the 60th month and not reinvested in another Community Development Financial Institution within 60 days, there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the withdrawal occurs, the entire amount of any credit previously allowed under this section.

(2) If a qualified investment is reduced before the end of the 60th month, but not below fifty thousand dollars (\$50,000), there shall be added to the “tax,” as defined in Section 23036, for the taxable year in which the reduction occurs, an amount equal to 20 percent of the total reduction for the taxable year.

(h) In the case where the credit allowed by this section exceeds the “tax,” the excess may be carried over to reduce the “tax” for the next four taxable years, or until the credit has been exhausted, whichever occurs first.

(i) The Franchise Tax Board shall, as requested by the Department of Insurance, California Organized Investment Network or its successor, advise and assist in the administration of this section.

(j) This section shall remain in effect only until December 1, 2012, and as of that date is repealed.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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